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ORIGINAL COUNTERPART
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INTERSTATE COMMERCE COMMISSION

TEMPORARY CONDITIONAL SALE AGREEMENT

Dated as of February 1, 1972

Between

ALLEN R. BRADLEY AND JOHN A. ZERBE

And

NORFOLK AND WESTERN RAILWAY COMPANY

TEMPORARY CONDITIONAL SALE AGREEMENT dated as of February 1, 1972, between ALLEN R. BRADLEY, of 1323 Bradford Road, Orelan, Pennsylvania 19075, and JOHN A. ZERBE, of 247 Buckboard Road, Willow Grove, Pennsylvania 19090 (collectively, the "Manufacturers") and NORFOLK AND WESTERN RAILWAY COMPANY, a Virginia corporation (the "Railroad").

R E C I T A L S

The Manufacturers have agreed to construct, or arrange to have constructed, sell and deliver to the Railroad, and the Railroad has agreed to purchase, the railroad equipment described in Schedule A hereto (the "Equipment").

In order that the Equipment may be delivered to and put to use by the Railroad pending consummation of arrangements for financing the acquisition of the Equipment by the Railroad, the Manufacturers have agreed that the Railroad may acquire possession of and the right to use the Equipment in accordance with and subject to the terms of this Agreement.

* * * * *

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the Manufacturers and the Railroad hereby agree as follows:

ARTICLE 1. Construction and Sale. Pursuant to this Agreement, the Manufacturers will construct, or arrange to have constructed, the Equipment at the plant set forth in Schedule A hereto and will sell and deliver the Equipment to the Railroad, and the Railroad will purchase from the Manufacturers and accept delivery of and pay for the Equipment as hereinafter provided, each unit of which will be constructed in accordance with the specifications referred to in Schedule A hereto and in accordance with such modifications thereof as may have been agreed upon in writing by the Manufacturers and the Railroad (which specifications and modifications, if any, are hereinafter called the Specifications).

ARTICLE 2. Delivery. The Manufacturers will deliver the Equipment to the Railroad f.o.b. the Railroad's tracks at the point or points and in accordance with the delivery schedule set forth in Schedule A hereto. The Manufacturers' obligation as to time of delivery is subject, however, to delays resulting from causes beyond the Manufacturers' reasonable control.

Upon the completion of construction of one or more units of the Equipment, said unit or units shall be presented

to an authorized representative of the Railroad for inspection at the place designated in Schedule A hereto for delivery of such unit or units. Such authorized representative shall execute and deliver to the Manufacturers, in duplicate, a certificate of acceptance therefor.

Upon delivery by the Manufacturers to the Railroad and acceptance by the Railroad of a unit of the Equipment hereunder, the Railroad assumes the responsibility and risk of loss with respect thereto.

ARTICLE 3. Purchase Price and Payment. The estimated unit price or prices and the estimated total price or prices of the Equipment are set forth in Schedule A hereto. Such estimated price or prices, which will include off-line freight charges, if any, from the Manufacturers' plant to the point of delivery, are subject to such increase or decrease as may be, or may have been, agreed to by the Manufacturers and the Railroad. The term "Purchase Price" as used herein shall mean the estimated price or prices as so increased or decreased.

The Railroad hereby acknowledges itself to be indebted to the Manufacturers in the amount of, and hereby promises to pay in cash to the Manufacturers at such place as the Manufacturers may designate, the Purchase Price of the Equipment as

stated in the invoice or invoices thereof. The Railroad shall be obligated to make such payment in respect of each unit of the Equipment on or before six months following the date of its delivery to and acceptance by the Railroad hereunder, and such payment may be made hereunder or under arrangements for financing the acquisition of such unit by the Railroad.

ARTICLE 4. Taxes. All payments to be made by the Railroad hereunder will be free of expense to the Manufacturers for collection or other charges and will be free of expense to the Manufacturers with respect to the amount of any local, state or federal taxes - other than income, gross receipts (except gross receipt taxes in the nature of sales taxes), excess profits and similar taxes - or licenses hereafter levied or imposed upon or measured by this Agreement or any sale, use, payment, shipment, delivery or transfer of title under the terms hereof, all of which expenses, taxes and licenses the Railroad assumes and agrees to pay on demand in addition to the indebtedness in respect of the Purchase Price of the Equipment. The Railroad will also pay promptly all taxes and assessments which may be imposed upon the Equipment, upon the use or operation thereof, upon the earnings arising therefrom or upon the

Manufacturers solely by reason of their ownership thereof and will keep at all times all and every part of the Equipment free and clear of all taxes and assessments which might in any way affect the title of the Manufacturers or result in a lien upon any unit of the Equipment.

ARTICLE 5. Title to the Equipment. The rights of the Railroad hereunder in respect of each unit of the Equipment shall commence on the date of acceptance of such unit hereunder and shall cease on the date of payment by the Railroad to the Manufacturers of the Purchase Price of such unit hereunder or under arrangements for financing the acquisition thereof. The Manufacturers shall and hereby do retain the full legal title to and property in the Equipment until the Railroad shall have made all of the payments hereunder and shall have kept and performed all its agreements contained herein, notwithstanding the delivery of the Equipment to and the possession and use thereof by the Railroad as herein provided. Any and all additions to the Equipment and any and all replacements of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

Absolute right to the possession of, title to and property in the Equipment shall pass to and vest in the Railroad only when the Railroad shall have paid to the Manufacturers the Purchase Price of the Equipment hereunder or under arrangements for financing the acquisition thereof and the Manufacturers shall have delivered to the Railroad a bill of sale for such units hereunder or thereunder.

ARTICLE 6. Marking of Equipment. The Railroad will cause each unit of the Equipment to be kept numbered with an identifying number as set out in Schedule A hereto and will keep and maintain, or cause to be kept and maintained, distinctly, conspicuously and permanently marked in stencil on each side of such unit, in letters not less than one inch in height, a legend designated by the Manufacturers, with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Manufacturers to the Equipment and its rights under this Agreement.

Except as above provided, the Railroad will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the

Railroad may cause the Equipment to be lettered "Norfolk and Western," "N&W," "NW," or in some other appropriate manner for convenience of identification of the interests of the Railroad therein or of identification of the interests therein of a subsidiary or affiliated railroad company controlled by the Railroad to which the Railroad shall grant the right to possession and use of the Equipment.

ARTICLE 7. Replacement of Equipment. In the event that any unit of the Equipment shall be or become worn out, lost, destroyed, irreparably damaged, condemned, seized by a government or otherwise rendered permanently unfit or unavailable for use from any cause whatsoever prior to the payment of the full indebtedness in respect of the Purchase Price of the Equipment hereunder or under arrangements for financing the acquisition of such unit by the Railroad, the Railroad shall promptly and fully inform the Manufacturers in regard thereto and shall pay to the Manufacturers the Purchase Price of such unit.

ARTICLE 8. Maintenance and Repair. The Railroad will at all times maintain the Equipment or cause the Equipment to be maintained in good order and repair at its own expense.

ARTICLE 9. Compliance with Laws and Rules. During the term of this Agreement the Railroad will comply in all respects with all laws of the jurisdictions in which its operations involving the Equipment may extend, with the Interchange Rules of the Interstate Commerce Commission and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over the Equipment, to the extent that such laws and rules affect the operation or use of the Equipment.

ARTICLE 10. Indemnification by Railroad. The Railroad shall indemnify, protect and hold harmless the Manufacturers from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including counsel fees, arising out of retention by the Manufacturers of title to the Equipment, or out of the use and operation thereof during the period when title thereto remains in the Manufacturers. This covenant of indemnity shall continue in full force and effect notwithstanding the full payment of the indebtedness in respect of the Purchase Price and the conveyance of the Equipment, as provided in Article 3 hereof, or the termination of this Agreement in any manner whatsoever.

ARTICLE 11. Assignment by Manufacturers. All or any of the rights, benefits and advantages of the Manufacturers under this Agreement, including the right to receive the payments in respect of the Purchase Price of the Equipment herein provided to be made by the Railroad, may be assigned by the Manufacturers.

ARTICLE 12. Article Headings. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

ARTICLE 13. Effect and Modification of Agreement. This Agreement and Schedule A hereto exclusively and completely state the rights and agreements of the Manufacturers and the Railroad with respect to the Equipment and supersede all other agreements, oral or written, with respect to the Equipment. No variation of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and duly executed on behalf of the Manufacturers and the Railroad.

ARTICLE 14. Law Governing. The terms of this Agreement and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Virginia.

ARTICLE 15. Termination. This Agreement shall be terminated and the terms hereof superseded in their entirety upon the delivery to and acceptance by the Railroad of all units of the Equipment and the payment by the Railroad to the Manufacturers of the Purchase Price of all such units under one or more conditional sale or other equipment financing agreements, except the terms of Articles 4 and 10 hereof to the extent not covered by such permanent financing arrangements.

ARTICLE 16. Definitions. The term "Manufacturers," whenever used in this Agreement, means, before any assignment of any of their rights hereunder, Allen R. Bradley and John A. Zerbe and the survivor of them and any successor or successors for the time being to their rights, powers, duties and obligations under an Agreement for Construction of Railroad Equipment dated as of November 27, 1962, as amended, between said persons and the Railroad, under which the Railroad, as an independent contractor, has agreed to construct and complete, for said persons and as their property, certain railroad equipment, including the Equipment.

ARTICLE 17. Execution. This Agreement, which is dated for convenience as of February 1, 1972, may be executed

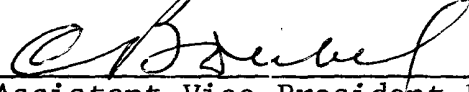
in any number of counterparts, each of which shall be deemed to be an original, and such counterparts together shall constitute a single instrument. The actual dates of execution hereof by the parties hereto are the dates stated in the acknowledgments annexed hereto.

IN WITNESS WHEREOF, Allen R. Bradley and John A. Zerbe have hereunto set their hands and seals, and the Railroad has caused this instrument to be signed and acknowledged by its proper officer and its corporate seal to be hereunto affixed and duly attested, all as of the day and year first above written.

 (L.S.)
Allen R. Bradley

 (L.S.)
John A. Zerbe

NORFOLK AND WESTERN RAILWAY COMPANY


By 
Assistant Vice President-Finance

ATTEST:


Secretary

COMMONWEALTH OF PENNSYLVANIA)
) ss.:
 COUNTY OF PHILADELPHIA)


On this *15th* day of *February*, 1972, before me personally appeared Allen R. Bradley and John A. Zerbe, to me known to be the persons described in and who executed the foregoing instrument on this date, and they acknowledged the same as their free act and deed.


 Notary Public

JUDITH Z. BOTE
 Notary Public, Philadelphia Co.
 My Commission Expires January, 23, 1974

COMMONWEALTH OF VIRGINIA)
) ss.:
 CITY OF ROANOKE)

On this *18th* day of *February*, 1972, before me personally appeared C. B. Deibel, to me personally known, who being by me duly sworn, says that he is Assistant Vice President - Finance of Norfolk and Western Railway Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument by him on this date was the free act and deed of said corporation.


 Notary Public

My Commission Expires October 1, 1973

SCHEDULE A
 to
 TEMPORARY CONDITIONAL SALE AGREEMENT
 Dated as of February 1, 1972
 between
 ALLEN R. BRADLEY and JOHN A. ZERBE
 and
 NORFOLK AND WESTERN RAILWAY COMPANY

<u>Type of Equipment</u>	<u>Specifications</u>	<u>AAR Symbol</u>
100-ton hopper cars with 3,420 cubic foot capacity (N&W Class H-11e)	Railroad's General Arrange- ment Drawing No. J-50962	HT

<u>Plant</u>	<u>Quantity</u>	<u>Railroad's Road Numbers</u>
Railroad's Shops at Roanoke, Virginia	2,015	134180 - 134244 and 134250 - 136199

<u>Estimated Unit Price</u>	<u>Estimated Total Price</u>	<u>Delivery</u>
\$ 13,400	\$27,001,000	At Roanoke, Virginia, from February 1972 through March 1972 and from September 1972 through August 1973

SCHEDULE A (cont'd.)

<u>Type of Equipment</u>	<u>Specifications</u>	<u>AAR Symbol</u>
100-ton bulkhead gondola cars (N&W Class G-72)	Railroad's General Arrange- ment Drawing No. J-51076	GBS

<u>Plant</u>	<u>Quantity</u>	<u>Railroad's Road Numbers</u>
Railroad's Shops at Roanoke, Virginia	1,000	99000 - 99999

<u>Estimated Unit Price</u>	<u>Estimated Total Price</u>	<u>Delivery</u>
\$ 14,600	\$14,600,000	At Roanoke, Virginia, from April 1972 through September 1972